

ACT No. 2003- 354

1 HB489
2 55606-6
3 By Representative Black (M)
4 RFD: Judiciary
5 First Read: 03-APR-03



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ENROLLED, An Act,

To create the Alabama Sentencing Reform Act of 2003;
to require the commission to develop and maintain a system of
statewide voluntary sentencing standards for use in felony
cases; to educate judges, prosecutors, probation and parole
officers, community corrections officials and other personnel
regarding the use of voluntary sentencing standards and
worksheets; to require the commission to collect and analyze
present and historical sentencing data, study existing felony
statutes and legislation proposing new criminal laws, and to
annually report to the Governor, the Legislature, the Chief
Justice, and the Attorney General on the work and
recommendations of the commission; to provide for departure
from the voluntary standards; to provide for reporting of
sentences in compliance with and departing from the voluntary
sentencing standards for statistical analysis only; to require
the commission to develop and present initial voluntary
sentencing standards and voluntary truth-in-sentencing
standards to the Legislature in stages over a three-year
period; to provide that the standards shall become effective
upon approval by the Legislature; to prescribe the duties of
probation officers, district attorneys, and trial courts in
using the standards; and in lieu of traditional parole and
goodtime eligibility, to provide sentences that include a

1 mandatory period of post-release supervision and an additional
2 period of incarceration that can be imposed pursuant to rules
3 and regulations of the Department of Corrections.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. This act shall be known and may be cited
6 as the Alabama Sentencing Reform Act of 2003.

7 Section 2. Statement of purpose.

8 (a) It is essential that Alabama manage its criminal
9 justice system in the manner best able to protect public
10 safety and make the most effective and efficient use of
11 correctional resources. Based on the findings and
12 recommendations of the Alabama Sentencing Commission, the
13 Legislature finds that all of the following are necessary to
14 protect public safety by providing a fair, effective, and
15 efficient criminal justice system:

16 (1) Voluntary sentencing standards used to guide
17 judicial decision makers in determining the most appropriate
18 sentence for convicted felony offenders.

19 (2) The abolition of traditional parole and good
20 time credits for convicted felons.

21 (3) The availability of a continuum of punishment
22 options.

23 (b) The Legislature further finds, based on the
24 findings and recommendations of the sentencing commission,

1 that subdivisions (1) to (3), inclusive, of subsection (a) are
2 necessary to best achieve all of the following goals:

3 (1) Incapacitating through incarceration the most
4 dangerous and violent offenders in the state.

5 (2) Eliminating unwarranted disparity in sentencing.

6 (3) Assuring truth-in-sentencing.

7 (4) Providing the most effective use of correctional
8 resources.

9 (5) Assuring the greatest opportunity for victim
10 restitution.

11 (6) Protecting against prison and jail overcrowding.

12 (7) Maintaining meaningful judicial discretion.

13 Section 3. Definitions.

14 For the purposes of this act, the following terms
15 have the following meanings:

16 (1) COMMISSION. The Alabama Sentencing Commission,
17 established as a state agency under the Supreme Court by
18 Chapter 25 of Title 12, Code of Alabama 1975.

19 (2) CONTINUUM OF PUNISHMENTS. An array of punishment
20 options, from probation to incarceration, graduated in
21 restrictiveness according to the degree of supervision of the
22 offender including, but not limited to, all of the following:

23 a. Active incarceration. A sentence, other than an
24 intermediate punishment or unsupervised probation, that
25 requires an offender to serve a sentence of imprisonment. The

1 term includes time served in a work release program operated
2 as a custody option by the Alabama Department of Corrections
3 or in the Supervised Intensive Restitution program of the
4 Department of Corrections pursuant to Article 7, commencing
5 with Section 15-18-110, of Chapter 18 of Title 15, Code of
6 Alabama 1975.

7 b. Intermediate punishment. A sentence that may
8 include assignment to any community based punishment program
9 or may include probation with conditions or probation in
10 conjunction with a period of confinement. Intermediate
11 punishments include, but are not limited to, all of the
12 following options:

13 1. A split sentence pursuant to Section 15-18-8,
14 Code of Alabama 1975.

15 2. Assignment to a community punishment and
16 corrections programs pursuant to the Alabama Community
17 Punishment and Corrections Act of 1991 or local acts.

18 3. Assignment to a community-based manual labor work
19 program pursuant to Sections 14-5-30 to 14-5-37, inclusive,
20 Code of Alabama 1975.

21 4. Intensive probation supervision pursuant to
22 Section 15-22-56, Code of Alabama 1975.

23 5. Cognitive and behavioral training.

24 6. Community service work.

25 7. County probation.

- 1 8. Day fines or means-based fines.
- 2 9. Day reporting.
- 3 10. Drug or alcohol testing.
- 4 11. Drug court programs.
- 5 12. Educational programs.
- 6 13. Electronic monitoring.
- 7 ~~14. Forfeiture and impoundment.~~
- 8 ~~15.~~ 14. Home confinement or house arrest.
- 9 ~~16.~~ 15. Ignition interlock.
- 10 ~~17.~~ 16. Intermittent confinement.
- 11 ~~18.~~ 17. Jail and prison diversion programs.
- 12 ~~19.~~ 18. Job readiness and work.
- 13 ~~20.~~ 19. Literacy and basic learning.
- 14 ~~21.~~ 20. Pretrial diversion programs.
- 15 ~~22.~~ 21. Residential drug treatment.
- 16 ~~23.~~ 22. Residential community based punishment
17 programs in which the offender is required to spend at least
18 eight hours per day, or overnight, within a facility and is
19 required to participate in activities such as counseling,
20 treatment, social skills training, or employment training,
21 conducted at the residential facility or at another specified
22 location.
- 23 ~~24.~~ 23. Restorative justice.
 - 24 (i) Victim impact panels.
 - 25 (ii) Voluntary victim offender conferencing.

1 (iii) Voluntary victim offender mediation.

2 ~~25.~~ 24. Self-help groups.

3 ~~26.~~ 25. Sobriety or breath alcohol remote
4 monitoring.

5 ~~27.~~ 26. Substance abuse education and treatment.

6 ~~28.~~ 27. Treatment alternatives to street crime
7 (TASC).

8 ~~29.~~ 28. Voice recognition, curfew restriction, or
9 employment monitoring.

10 ~~30.~~ 29. Work release, other than those work release
11 programs operated by the Alabama Department of Corrections, as
12 a custody option.

13 c. Unsupervised probation. A sentence in a criminal
14 case that includes a period of probation but does not include
15 supervision, active incarceration, or an intermediate
16 punishment.

17 d. Post-Release Supervision. A mandatory period of
18 supervision following sentences of active incarceration as
19 defined in paragraph a. that may include one or more
20 intermediate punishment options.

21 (3) COURT. Unless otherwise stated, a district or
22 circuit court exercising jurisdiction to sentence felony
23 offenders.

24 (4) FELONY OFFENSE. A noncapital felony offense.

1 (5) INITIAL VOLUNTARY STANDARDS. The voluntary
2 sentencing standards that become effective on October 1, 2004.
3 These standards shall be based on statewide historic sentences
4 imposed with normative adjustments designed to reflect current
5 sentencing policies.

6 (6) NONVIOLENT OFFENDER. Any offender who does not
7 qualify as a violent offender pursuant to subdivision (12).

8 (7) OFFENDER. A person convicted of a noncapital
9 felony offense.

10 (8) RELEASE AUTHORITY. Any public official, agency,
11 or other entity authorized by law to release a sentenced
12 offender from incarceration or other conditions of a sentence.

13 (9) RISK ASSESSMENT. An instrument designed to
14 assess an offender's relative risk for reoffending.

15 (10) TRUTH-IN-SENTENCING STANDARDS. The voluntary
16 sentencing standards that become effective October 1, 2006.
17 These standards shall be based on statewide historic time
18 served for offenses with adjustments designed by the
19 commission to reflect current sentencing policies.

20 (11) UNDER SUPERVISION. All offenders under the
21 supervision of any criminal justice agency or program
22 including, but not limited to, any of the following entities:

- 23 a. The Alabama Department of Corrections.
24 b. State or county probation offices.

1 c. Community corrections programs pursuant to
2 Alabama Community Corrections Act of 1991.

3 d. Jails.

4 e. State or local law enforcement agencies.

5 f. Any court.

6 (12) VIOLENT OFFENDER. A violent offender is an
7 offender who has been convicted of a violent offense, or who
8 is determined by the trial court judge or a release authority
9 to have demonstrated a propensity for violence, aggression, or
10 weapons related behavior based on the criminal history or
11 behavior of the offender while under supervision of any
12 criminal justice system agency or entity.

13 (13) VIOLENT OFFENSE.

14 a. For the purposes of this act, a violent offense
15 includes each of the following offenses, or any substantially
16 similar offense to those listed in this subdivision created
17 after the effective date of this act:

18 1. Capital murder pursuant to Section 13A-6-2 and
19 13A-5-40, Code of Alabama 1975.

20 2. Murder pursuant to Section 13A-6-2, Code of
21 Alabama 1975.

22 3. Manslaughter pursuant to Section 13A-6-3, Code of
23 Alabama 1975.

24 4. Criminally negligent homicide pursuant to Section
25 13A-6-4, Code of Alabama 1975.

- 1 5. Assault I pursuant to Section 13A-6-20, Code of
2 Alabama 1975.
- 3 6. Assault II pursuant to Section 13A-6-21, Code of
4 Alabama 1975.
- 5 7. Compelling street gang membership pursuant to
6 Section 13A-6-26, Code of Alabama 1975.
- 7 8. Kidnapping I pursuant to Section 13A-6-43, Code
8 of Alabama 1975.
- 9 9. Kidnapping II pursuant to Section 13A-6-44, Code
10 of Alabama 1975.
- 11 10. Rape I pursuant to Section 13A-6-61, Code of
12 Alabama 1975.
- 13 11. Rape II pursuant to Section 13A-6-62, Code of
14 Alabama 1975.
- 15 12. Sodomy I pursuant to Section 13A-6-63, Code of
16 Alabama 1975.
- 17 13. Sodomy II pursuant to Section 13A-6-64, Code of
18 Alabama 1975.
- 19 14. Sexual torture pursuant to Section 13A-6-65.1,
20 Code of Alabama 1975.
- 21 15. Sexual abuse I pursuant to Section 13A-6-66,
22 Code of Alabama 1975.
- 23 16. Enticing a child to enter a vehicle for immoral
24 purposes pursuant to Section 13A-6-69, Code of Alabama 1975.

1 17. Stalking pursuant to Section 13A-6-90, Code of
2 Alabama 1975.

3 18. Aggravated stalking pursuant to Section
4 13A-6-91, Code of Alabama 1975.

5 19. Soliciting a child by computer pursuant to
6 Section 13A-6-110, Code of Alabama 1975.

7 20. Domestic violence I pursuant to Section
8 13A-6-130, Code of Alabama 1975.

9 21. Domestic violence II pursuant to Section
10 13A-6-131, Code of Alabama 1975.

11 22. Burglary I pursuant to Section 13A-7-5, Code of
12 Alabama 1975, unless the offender enters the dwelling without
13 a weapon or other dangerous instrument and does not use or
14 threaten to use a weapon or dangerous instrument against
15 another person during the commission of the offense.

16 23. Burglary II pursuant to subsection (a) of
17 Section 13A-7-6, Code of Alabama 1975.

18 24. Burglary III pursuant to Section 13A-7-7, Code
19 of Alabama 1975, if the intent is to commit a violent offense.

20 25. Arson I pursuant to Section 13A-7-41, Code of
21 Alabama 1975.

22 26. Criminal possession of explosives pursuant to
23 Section 13A-7-44, Code of Alabama 1975.

24 27. Extortion I pursuant to Section 13A-8-14, Code
25 of Alabama 1975.

1 28. Robbery I pursuant to Section 13A-8-41, Code of
2 Alabama 1975.

3 29. Robbery II pursuant to Section 13A-8-42, Code of
4 Alabama 1975.

5 30. Robbery III pursuant to Section 13A-8-43, Code
6 of Alabama 1975.

7 31. Pharmacy robbery pursuant to Section 13A-8-51,
8 Code of Alabama 1975.

9 32. Terrorist threats pursuant to Section 13A-10-15,
10 Code of Alabama 1975.

11 33. Escape I pursuant to Section 13A-10-31, Code of
12 Alabama 1975.

13 34. Promoting prison contraband I pursuant to
14 Section 13A-10-36, Code of Alabama 1975, involving a deadly
15 weapon or dangerous instrument.

16 35. Intimidating a witness pursuant to Section
17 13A-10-123, Code of Alabama 1975.

18 36. Intimidating a juror pursuant to Section
19 13A-10-127, Code of Alabama 1975.

20 37. Treason pursuant to Section 13A-11-2, Code of
21 Alabama 1975.

22 38. Discharging a weapon into an occupied building,
23 dwelling, automobile, etc. pursuant to Section 13A-11-61, Code
24 of Alabama 1975.

1 39. Promoting prostitution I pursuant to Section
2 13A-12-111, Code of Alabama 1975.

3 40. Production of obscene matter involving a minor
4 pursuant to Section 13A-12-197, Code of Alabama 1975.

5 41. Trafficking pursuant to Section 13A-12-231, Code
6 of Alabama 1975.

7 42. Child abuse pursuant to Section 26-15-3, Code of
8 Alabama 1975.

9 43. Elder abuse pursuant to Section 38-9-7, Code of
10 Alabama 1975.

11 44. Terrorism pursuant to Section 13A-10-152; Code
12 of Alabama 1975.

13 45. Hindering prosecution for terrorism pursuant to
14 Section 13A-10-154, Code of Alabama 1975.

15 46. Any substantially similar offense for which an
16 Alabama offender has been convicted under prior Alabama law or
17 the law of any other state, the District of Columbia, the
18 United States, or any of the territories of the United States.

19 b. The basis for defining these offenses as violent
20 is that each offense meets at least one of the following
21 criteria:

22 1. Has as an element, the use, attempted use, or
23 threatened use of a deadly weapon or dangerous instrument or
24 physical force against the person of another.

1 2. Involves a substantial risk of physical injury
2 against the person of another.

3 3. Is a nonconsensual sex offense.

4 4. Is particularly reprehensible.

5 ~~c. After the effective date of this act, any bill~~
6 ~~introduced in the Legislature that modifies or establishes a~~
7 ~~felony offense in the state, before passage, shall be~~
8 ~~submitted to the Alabama Sentencing Commission for the~~
9 ~~recommendation of the commission, including a recommendation~~
10 ~~of whether the commission considers the offense to be violent~~
11 ~~or nonviolent.~~

12 ~~d.~~ c. Any attempt, conspiracy, or solicitation to
13 commit a violent offense shall be considered a violent offense
14 for the purposes of this act.

15 Section 4. To achieve the goals recognized by the
16 Legislature in Chapter 25 of Title 12, Code of Alabama 1975,
17 and Section 2, the commission shall:

18 (1) Develop, maintain, and modify as necessary a
19 system of statewide voluntary sentencing standards for use in
20 felony cases which shall take into account historical
21 sentencing data, concerning time actually served for various
22 felony offenses, sentences imposed for various felony
23 offenses, and such other factors as appear historically
24 relevant to determining both the duration and disposition of
25 sentences in felony cases. The standards shall recognize a

1 continuum of punishments in recommending the disposition of
2 sentences.

3 (2) Educate judges, prosecutors, defense attorneys,
4 victim's service officers, community corrections officials
5 probation officers, and other personnel, where appropriate, in
6 the use of the voluntary sentencing standards and worksheets.

7 (3) Develop, distribute, and periodically update
8 sentencing worksheets for the use of courts in determining
9 both the duration and disposition of sentences in felony
10 cases.

11 (4) Prepare, distribute, and periodically update a
12 form for sentencing courts to record the sentence of the
13 offender and the reason or reasons for any departure from the
14 voluntary sentencing standards.

15 (5) Develop and distribute voluntary standards for
16 sentencing courts that include recommended intermediate
17 punishment options.

18 (6) Evaluate risk assessment instruments used by the
19 Board of Pardons and Paroles, the Department of Corrections,
20 and other agencies and entities and assist in developing an
21 offender risk assessment instrument for use in felony cases,
22 based on a study of Alabama felons, that is intended to be
23 predictive of the relative risk that a felon will become a
24 threat to public safety.

1 (7) Collect, analyze, and maintain data regarding
2 sentencing practices in felony cases, including the use of the
3 voluntary sentencing standards, and recommend changes or
4 modifications of the standards and worksheets as the
5 commission deems appropriate.

6 (8) Collect and analyze information including
7 sentencing data, crime trends, and existing correctional
8 resources to enable the commission to make recommendations
9 regarding projected correctional resource needs and to make
10 recommendations to the Governor, the Legislature, the Chief
11 Justice, and the Attorney General in the annual report of the
12 commission. This annual report should also include data
13 showing the impact of the initial voluntary standards and the
14 truth-in-sentencing standards by race, gender, and location of
15 the offender.

16 (9) Study felony statutes in the context of
17 sentencing patterns as they evolve and make recommendations
18 for the revision of criminal offense statutes to provide more
19 specific offense definitions and more narrowly prescribed
20 ranges of punishment.

21 (10) Study bills introduced in the Legislature
22 affecting criminal laws and procedure and prepare impact
23 statements of proposed legislation on Alabama's criminal
24 justice system, including the prison population.

1 (11) Report upon its work and recommendations
2 annually to the Governor, the Legislature, the Chief Justice,
3 and the Attorney General.

4 (12) Perform such other functions as may be required
5 by law or necessary to carry out the duties of the Commission
6 prescribed in Chapter 25 of Title 12, Code of Alabama 1975,
7 and this act.

8 Section 5. Development and adoption of the initial
9 voluntary sentencing standards.

10 (a) Statewide voluntary sentencing standards shall
11 be developed and presented to the Legislature in stages over a
12 three-year period as follows:

13 (1) By July 31, 2003, the commission shall develop
14 and distribute to all sentencing judges a reference manual
15 analyzing historical sentencing practices by duration of
16 sentence and disposition of felony offenders in Alabama. The
17 reference manual shall indicate those types of offenders
18 historically most likely to be sentenced to punishments other
19 than active incarceration where alternatives to active
20 incarceration are available.

21 (2) Concurrently with the development and
22 distribution of the reference manual, the commission shall
23 develop and begin testing worksheets and voluntary sentencing
24 standards in selected circuits for selected felony offenses.

1 (3) The commission shall develop and present the
 2 initial voluntary sentencing standards to the Legislature
 3 before or during the 2004 Regular Session. These standards
 4 shall be introduced in the 2004 Regular Session and shall
 5 become effective on October 1 following the 2004 Regular
 6 Session, if approved by an act of the Legislature passed
 7 during that session. The initial voluntary sentencing
 8 standards based on sentences imposed shall apply only to
 9 convictions for felony offenses committed before the effective
 10 date of voluntary truth-in-sentencing standards.

11 (4) The commission shall develop and present
 12 voluntary truth-in-sentencing standards to the Legislature
 13 before or during the 2006 Regular Session. These standards
 14 shall be introduced in the 2006 Regular Session and shall
 15 become effective on October 1 following the 2006 Regular
 16 Session, if approved by an act of the Legislature passed
 17 during that session. The voluntary truth-in-sentencing
 18 standards shall apply only to felony offenses committed on or
 19 after the effective date of these standards.

20 (b) Recommended sentence ranges shall be established
 21 by standards that are based on historical sentencing
 22 practices, adjusted to achieve sentencing goals as established
 23 in Rule 26 of the Alabama Rules of Criminal Procedure, Chapter
 24 25 of Title 12 of the Code of Alabama 1975, and Section 2.

1 (c) Voluntary sentencing standards shall take into
2 account and include statewide historically based sentence
3 ranges, including all applicable statutory minimums and
4 sentence enhancement provisions, including the Habitual Felony
5 Offender Act, with adjustments made to reflect current
6 sentencing policies. No additional penalties pursuant to any
7 sentence enhancement statute shall apply to sentences imposed
8 based on the voluntary sentencing standards.

9 (d) After adoption of the initial voluntary
10 standards and the voluntary truth-in-sentencing standards, any
11 modifications made by the commission shall be contained in the
12 annual report presented to the Governor, the Legislature, the
13 Chief Justice, and the Attorney General. An annual report
14 containing proposed modifications shall be presented to the
15 Governor, the Legislature, the Chief Justice, and the Attorney
16 General before or during the third legislative day of each
17 regular session of the Legislature. The modifications shall be
18 introduced during that regular session and shall become
19 effective on October 1 following the legislative session in
20 which the modifications were introduced, if approved by an act
21 of the Legislature passed during the legislative session in
22 which the modifications were introduced.

23 Section 6. Use of voluntary sentencing standards.

1 ~~(a) In felony cases, a probation officer or the~~
2 ~~district attorney, after notice to the offender or his or her~~
3 ~~attorney, shall present a completed appropriate voluntary~~

4 (a) In felony cases, a probation officer, the
5 district attorney, or some other person appointed at the
6 discretion of the sentencing judge, and within the time frame
7 set by the judge, shall, after notice to the offender or his
8 or her attorney, present a completed appropriate voluntary
9 sentencing standards worksheet to the sentencing judge for
10 consideration.

11 (b) The trial court shall review the sentencing
12 standards worksheet and consider the suitability of the
13 applicable voluntary sentencing standards established pursuant
14 to this act. In imposing sentence, the court shall indicate on
15 the record that the worksheet and applicable sentencing
16 ~~standards have been reviewed and considered and shall make the~~
17 ~~completed worksheets a part of the record of the case.~~
18 standards have been reviewed and considered.

19 (c) In any felony case in which the trial court
20 imposes a sentence that departs from the voluntary standards,
21 and sentences outside the voluntary sentencing standards in
22 accordance with existing law, the court ~~shall~~ may provide a
23 brief written reason for the departure. Neither the departure
24 nor the reason stated for the departure shall be subject to
25 appellate review but shall be supplied to the Alabama

1 Sentencing Commission for future consideration concerning
2 modification of the voluntary sentencing standards and for
3 statistical purposes only.

4 (d) Copies of the voluntary sentencing standards
5 worksheets, prepared pursuant to this act, shall be subject to
6 the same distribution requirements as presentence
7 investigation reports.

8 (e) Following the imposition of a sentence in a
9 felony case, the clerk of the court in which the case was
10 disposed shall forward a copy of the sentencing order or
11 orders, a copy of the voluntary sentencing standards
12 worksheets prepared in the case, and a copy of any departure
13 explanation to the commission within 45 days after the
14 imposition of sentence.

15 (f) Failure to follow any or all of the provisions
16 of this section, or failure to follow any or all of the
17 provisions of this section in the prescribed manner, shall not
18 be reviewable on appeal or the basis of any other
19 post-conviction relief.

20 Section 7. Sentencing under the voluntary
21 truth-in-sentencing standards.

22 When a judge sentences based on the voluntary
23 truth-in-sentencing standards, all of the following rules
24 shall apply:

1 (1) Sentences imposed based on voluntary
2 truth-in-sentencing standards pursuant to this act shall not
3 be subject to any other provision of law concerning the
4 duration of sentence.

5 (2) Sentences imposed based on the voluntary
6 truth-in-sentencing standards shall include both a minimum and
7 an extended term of sentence including a period of
8 post-release supervision. The minimum sentence and the
9 extended sentence shall be specified in the judgment of the
10 court for those sentences that are imposed in compliance with
11 the voluntary truth-in-sentencing standards. Sentence
12 dispositions may include active incarceration, intermediate
13 punishment, unsupervised probation, or a minimum punishment as
14 specified in the voluntary truth-in-sentencing standards.

15 (3) The minimum term of sentence shall be consistent
16 with the sentence range recommended in the voluntary
17 truth-in-sentencing standards for the worksheet score of an
18 offender. No offender sentenced to incarceration may be
19 released from incarceration before the expiration date of the
20 minimum term of sentence.

21 (4) The extended term of sentence shall be a period
22 of time equal to 120 percent of the minimum term, rounded to
23 the next highest month, plus a one-year period of post-release
24 supervision.

1 (5) The amount of time an offender shall be
2 incarcerated on the extended term of sentence shall be
3 determined by the Department of Corrections pursuant to rules
4 and regulations established by the Department of Corrections
5 governing an offender's conduct after conviction and sentence.

6 (6) No sentence of active incarceration may be
7 suspended.

8 (7) For any disposition of sentence less than active
9 incarceration as defined in paragraph a. of subdivision (2) of
10 Section 3, the court shall retain jurisdiction to modify
11 sentence disposition of sentence.

12 Section 8. ~~No offender shall be eligible for parole~~
13 ~~or for any good time deductions on sentences imposed for~~
14 ~~offenses committed after the effective date of the voluntary~~
15 ~~truth-in-sentencing standards.~~

16 Section 9. Post-release supervision.

17 (a) An offender sentenced based on the voluntary
18 truth-in-sentencing standards is released from incarceration
19 to post-release supervision on the date equivalent to the
20 expiration of the minimum term of sentence plus any additional
21 time added by the Department of Corrections on the offender's
22 extended term of sentence. In no event, however, shall an
23 offender's initial release date be later than the date
24 equivalent to the extended term less the time equivalent to
25 the period of post-release supervision.

1 (b) An offender may not refuse post-release
2 supervision.

3 (c) An offender whose offense was committed after
4 the effective date of the voluntary truth-in-sentencing
5 standards but whose sentence of active incarceration was a
6 departure from the standards, shall be released to
7 post-release supervision one year prior to the date calculated
8 as the end of the offender's sentence.

9 (d) Before an offender is released to post-release
10 supervision, the Board of Pardons and Paroles shall design a
11 release plan to reintegrate the offender into society and to
12 further hold the offender accountable for his or her offense
13 by collecting restitution and other court indebtedness.

14 (e) Post-release supervision shall be provided by
15 probation and parole officers or other officers designated by
16 the Board of Pardons and Paroles.

17 Section 10. Revocation of post-release supervision
18 status.

19 (a) Offenders who fail to comply with the conditions
20 of post-release supervision as specified by the Board of
21 Pardons and Paroles may have their release status revoked.

22 (b) At any time during the period of post-release
23 supervision, the Board of Pardons and Paroles may issue a
24 warrant and may cause the offender to be arrested for
25 violating any of the conditions of post-release supervision.

1 (c) Any probation officer, police officer, or other
2 officer with power of arrest, when requested by the probation
3 officer or other supervising officer, may arrest an offender
4 under post-release supervision without a warrant. To arrest
5 the offender without a warrant, the arresting officer shall
6 have a written statement by the probation officer or other
7 supervising officer declaring that the offender under
8 post-release supervision, in his or her judgment, has violated
9 the conditions of post-release supervision. The statement
10 shall be sufficient warrant for the detention of the person
11 under post-release supervision in the county jail or other
12 appropriate place of detention until the offender under
13 post-release supervision is brought before the Board of
14 Pardons and Paroles; provided that no person detained under
15 this section shall be held in the county jail for more than 20
16 days, and if his or her detention exceeds 20 days, he or she
17 shall be immediately transferred to a state correctional
18 facility. The probation officer or other supervising officer
19 shall forthwith report the arrest and detention to the Board
20 of Pardons and Paroles and shall submit in writing a report
21 demonstrating how the offender under post-release supervision
22 violated the terms of his or her release status.

23 (d) If the offender violates a condition of
24 post-release supervision, the Board of Pardons and Paroles,

1 after a hearing, may implement one or more of the following
2 options:

3 (1) Continue the existing term of post-release
4 supervision.

5 (2) Issue a formal or informal warning to the
6 offender under post-release supervision that further violation
7 may result in revocation of his or her post-release
8 supervision status and a return to incarceration for a period
9 of time not to exceed the remainder of the maximum sentence
10 imposed at the time of sentencing. An offender shall not
11 receive credit on his or her sentence for time served on
12 post-release supervision.

13 (3) Conduct a formal or informal conference with the
14 offender under post-release supervision to reemphasize the
15 necessity of compliance with the conditions of his or her
16 release status.

17 (4) Modify the conditions of post-release
18 supervision, including, but not limited to, short periods of
19 confinement.

20 (5) Revoke the post-release supervision status of
21 the offender and order the offender returned to custody for
22 such period of time as provided in subdivision (2).

23 (6) The Board of Pardons and Paroles may not revoke
24 the release status of an offender and order additional
25 confinement unless the board finds on the basis of the

1 original offense and the intervening conduct of the offender,
2 either of the following:

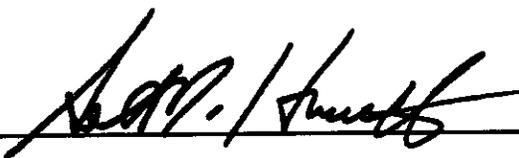
3 a. That no measure short of confinement will
4 adequately protect the community from further criminal
5 activity by the offender.

6 b. That no measure short of confinement will avoid
7 depreciating the seriousness of the violation.

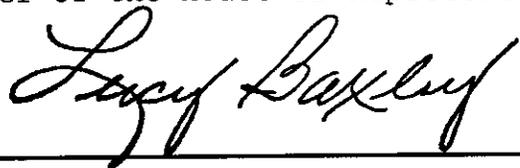
8 c. In lieu of a formal hearing, the Board of Pardons
9 and Paroles may issue a standing order authorizing supervising
10 officers to impose the sanctions listed in subdivisions (1),
11 (2), or (3) of this subsection or any pre-approved sanction
12 that does not include a period of confinement. All instances
13 of non-compliance and disciplinary actions shall be
14 immediately reported to the Board of Pardons and Paroles.

15 Section 11. This act shall become effective
16 immediately following its passage and approval by the
17 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives



President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 29-APR-03, as amended.

Greg Pappas
Clerk

Senate

16-JUN-03

Amended and Passed

House

16-JUN-03

Concurred in Sen-
ate Amendment

APPROVED 6-20-03
TIME 2:54 PM
Bob R. L.
Governor

Alabama Secretary Of State

Act Num.... : 2003-354
Repy: ALBS/03/03 : 0488paHMB

4:16 AM